


BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-444-C-ORDER NO. 2000-0129

FEBRUARY 4, 2000

IN RE: Application of O1 Communications of South Carolina,) ORDER
LLC for a Certificate of Public Convenience And) GRANTING
Necessity to Provide Competitive Local and Intrastate) CERTIFICATE
IntraLATA and InterLATA Interexchange)
Telecommunications Services Within The State of)
South Carolina)



This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of O1 Communications of South Carolina, LLC ("O1" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide both facilities-based and resold local exchange service and interexchange telecommunications services throughout the State of South Carolina. O1 intends to offer local exchange services to customers in the service area of incumbent local exchange carrier BellSouth Telecommunications, Inc. ("BellSouth") and interexchange services to customers throughout the State. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1998) and the Regulations of the Public Service Commission of South Carolina.

By letter, the Commission's Executive Director instructed O1 to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. O1 complied

with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”). However, prior to the hearing on this matter, the SCTC withdrew its Intervention in the proceeding. The SCTC stated as its reason for withdrawing its intervention is the fact that O1 is seeking to provide local services only in the area served by BellSouth and has determined that the member companies of the SCTC will not be impacted by this proceeding.

A hearing was commenced on January 20, 2000, at 10:30 a.m., in the Commission’s Hearing Room. The Honorable Philip T. Bradley, presided. O1 was represented by Kevin A. Hall, Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Rudolph J. Geist, Executive Vice President and General Counsel for O1, appeared and offered testimony in support of O1’s application. Mr. Geist stated that he oversees the daily business operations of O1. The Company plans to offer local exchange services, exchange access services, and intraLATA and interLATA interexchange services on a facilities-based and resold basis. Specifically, O1 seeks authority to provide digital and analog telephone services to technology-based businesses. O1 seeks to provide its local services in the area served by BellSouth and intrastate intraLATA and interLATA interexchange services throughout the State of South Carolina. O1 is a limited liability corporation organized on October 15, 1999, under the laws of the State of South Carolina. O1 is owned by its sole member company, O1 Communications, Inc., a California corporation.

O1 is currently certified to provide telecommunications services in approximately 12 to 15 states. It is seeking certification in approximately 15 additional states. The Company has

entered into a regional interconnection agreement with BellSouth. Mr. Geist stated that O1 would only use underlying carriers that are properly certified to operate within South Carolina. Further, O1 will rely on BellSouth and the underlying carrier to handle technical problems that arise in South Carolina.

Mr. Geist stated that certification of O1 will provide South Carolina consumers with additional choices for local exchange and interexchange services. Further, Mr. Geist offered that O1's entry into the local exchange market would not unreasonably prejudice or disadvantage any telephone service providers. Mr. Geist stated that O1 has access to adequate financing and capital for its venture into the South Carolina market. Further, Mr. Geist described the managerial and technical experiences of O1's officers. According to Mr. Geist, O1's personnel represent a broad spectrum of business and technical disciplines with many years of individual and aggregate telecommunications experience. The officers of O1 have extensive managerial, financial, and technical experience with which to execute O1's business plan.

O1 is seeking a waiver of 26 S.C. Code Ann. Regs. 103-631 so that it can enter into a contract with the directory publisher of each area in which the Applicant provides local service to include the names of its customers in the appropriate publisher's directory. In addition, the Company seeks a waiver of 26 S.C. Code Ann. Regs. 103-610 so that O1 can maintain its records out of state. O1 also seeks a waiver of the requirements that may require the Company to maintain its financial records in conformance with the Uniform System of Accounts (USOA) and requests authorization to maintain its books in accordance with Generally Accepted Accounting Principles (GAAP). Further, with regard to its financial records, O1 requests that it not be required to maintain records on a state-specific basis.

Mr. Geist explained O1's plans for customer service stating that the customer service will be handled in-house and will be available 24 hours a day, 7 days a week. Regulatory questions regarding O1 should be directed to Mr. Geist. Mr. Geist testified that upon certification from this Commission, O1 will abide by all the rules and regulations of the South Carolina Public Service Commission.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. O1 is organized as a limited liability corporation under the laws of the State of South Carolina and is accorded all legal rights and responsibilities by the State of South Carolina as are conferred upon a South Carolina business entity.
2. O1 wishes to provide local exchange services and interexchange services within the State of South Carolina.
3. The Commission finds that O1 possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1998).
4. The Commission finds that O1's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1998).
5. The Commission finds that O1 will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1998).

6. The Commission finds that O1 will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1998).

7. The Commission finds that the provision of local exchange service by O1 “does not otherwise adversely impact the public interest.” S.C. Code Ann. §58-9-280(B)(5) (Supp. 1998).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to O1 to provide competitive intrastate local exchange services only to customers located in those areas of South Carolina served by BellSouth. Any proposal to provide local exchange service to a customer in a rural incumbent LEC’s service area or any other incumbent LEC’s service areas is not included in the instant grant of authority. Further, the Company is granted authority to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. O1 shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. With regard to the interexchange service offerings of O1, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate

levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. O1 shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. O1 shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 6, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

5. If it has not already done so by the date of issuance of this Order, O1 shall file its revised long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. O1 is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to the Company's resale of interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. O1 shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If O1 changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, O1 shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 C.F.R. 51.209).

10. O1 shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs O1 to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to

be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, O1 shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

12. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

O1 shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

13. O1 shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

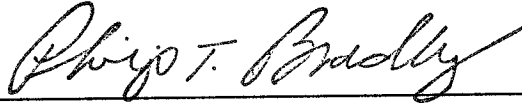
14. By its Application, O1 requested waivers from Commission requirements (1) of publishing a directory, (2) of maintaining its books and records in conformance with the Uniform System of Accounts (“USOA”), (3) of maintaining its books within the State of South Carolina, (4) of maintaining books and records specifically for South Carolina operations, and (5) of any reporting requirements which are not applicable to competitive providers. The Commission finds the reasoning behind O1’s requests for waivers (1) of publishing its own directory, (2) of maintaining books and records in conformance with USOA, and (3) maintaining books and records within the state reasonable and hereby grants the waivers of the regulations requested. However, the Commission denies O1’s requests for waivers of (1) maintaining books and records specifically for South Carolina operations and (2) of any reporting requirements which are not applicable to competitive providers. The Commission cannot grant O1’s request for waiver of keeping records specific to South Carolina because O1 must make an annual report and gross receipt report which contains only intrastate information. O1 must be able to comply with this annual reporting requirement. Further, the Commission denies O1’s request for waiver of any reporting requirements not applicable to competitive providers. Such a request is too broad and lacks specificity. The Commission will not grant a blanket waiver. The Commission Rules and Regulations allow for waivers to be granted under certain situations, however, this Commission will only entertain specific requests and will not entertain a blanket request with no specificity. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. O1 shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report

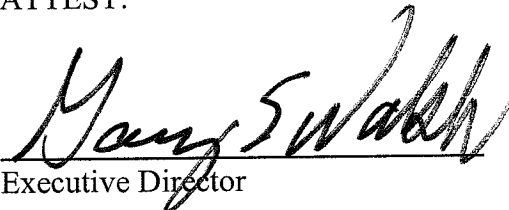
will necessitate the filing of intrastate information. Therefore, O1 shall keep financial records on an intrastate basis for South Carolina to comply with the annual and gross receipts filings.

16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

**ANNUAL SURVEILLANCE INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S**

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____

* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING

* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

AUTHORIZED UTILITY REPRESENTATIVE INFORMATION

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION

103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

Company Name (Including dba Name(s) or Acronyms used or to be used in South Carolina)

Business Address

City, State, Zip Code

A.

General Manager Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

B.

Customer Relations (Complaints) Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

C.

Engineering Operations Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

D.

Test and Repair Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

E.

Contact for Emergencies During Non-Office Hours (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

F.

Financial Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

G.

Customer Contact Telephone Number for Company (Toll Free)

This form was completed by

Signature

**If you have any questions, contact the Consumer Services Department (803-896-5230)
or Utilities Department at (803-896-5105).**